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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	<u>COMPLAINT</u>
	:	
v.	:	22 Civ. 5776
	:	
PHILLIP LIU, ELLEN CHAN-LIU,	:	
CITIMORTGAGE INC., and CENLAR FSB,	:	
	:	
Defendants.	:	
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Plaintiff the United States of America (the “United States”), by and through its attorney, Damian Williams, United States Attorney for the Southern District of New York, alleges upon information and belief as follows:

**INTRODUCTION**

1. This is a civil action brought by the United States to (a) reduce to judgment the outstanding federal unpaid tax liabilities of defendant Phillip Liu for tax year (“TY”) 2009, and (b) enforce a tax lien upon a condominium apartment owned by Mr. Liu, which is located at 85-26 Grand Avenue, Apartment 2A, Elmhurst, New York 11373 (the “Property”), which is located in Queens County.

2. This action has been authorized and requested by a delegate of the Secretary of the Treasury and is brought at the direction of the Attorney General of the United States pursuant to 26 U.S.C. §§ 7401 and 7403, as amended.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a) and 7403.

4. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. §§ 1391(b) and 1396, because Mr. Liu resides within this District and the tax liabilities giving rise to this action accrued in this District.

### **THE PARTIES**

5. Defendant Phillip Liu is a natural person who resides at 2236 Parker Lane, Yorktown Heights, New York 10598, which is in this District.

6. Defendant Ellen Chan-Liu is a natural person and is Mr. Liu's wife. She resides with him. Ms. Chan-Liu and Mr. Liu co-own the Property as tenants by the entirety, but upon information and belief neither of them resides there.

7. Defendant CitiMortgage Inc. ("CitiMortgage") is an entity headquartered in O'Fallon, Missouri, and is the mortgagee of the Property. CitiMortgage may have or claim to have an interest in the proceeds of any sale of the Property.

8. Defendant Cenlar FSB ("Cenlar") is an entity headquartered in Ewing, New Jersey, and is the current servicer of the mortgage on the Property. Cenlar may have or claim to have an interest in the proceeds of any sale of the Property.

**FIRST CLAIM FOR RELIEF**  
**Collecting Unpaid Tax Liability – 26 U.S.C. § 7401**

9. The allegations in paragraphs 1 through 8 are repeated and realleged as though set forth fully herein.

10. As of November 15, 2021, Mr. Liu was indebted to the United States for unpaid federal income tax for TY 2009 in the total amount, including penalties and interest (computed to November 15, 2021), of \$70,294.92. This amount is comprised of the following:

Tax Year	Date Tax Assessed	Original Tax Assessed	Original Penalties Assessed	Amount Owed (as of Nov. 15, 2021)
2009	July 9, 2012	\$32,390.00	\$6,558.00	\$70,294.92

Interest, penalties, and other statutory additions are continuing to accrue on the outstanding obligations according to law.

11. On October 18, 2010, Mr. Liu filed a separate tax return from his wife for TY 2009. On July 9, 2012, the Internal Revenue Service (“IRS”) assessed an additional tax liability of \$32,390 against Mr. Liu due to underreported income of \$88,159.

12. On April 13, 2021, the IRS filed a Notice of Federal Tax Lien (“NFTL”) in Queens County, New York, for the unpaid TY 2009 tax debt. The IRS refiled the NFTL on September 27, 2021, in order to satisfy 26 U.S.C. § 6323(g)(3), which requires refiling such liens during the one-year period ending 30 days after expiration of 10 years from the date of the tax assessment. This lien attached to all property and rights to property of Mr. Liu, including his interest in the Property.

13. Despite notice and due demand by the IRS, Mr. Liu has neglected or refused to pay the full amount of the assessed liability. The IRS has exhausted its administrative remedies in attempting to collect the amount due.

14. The assessment for tax liability at issue was made on July 9, 2012. Collection is therefore timely pursuant to the statutory ten-year period from the date of the assessment. *See* 26 U.S.C. § 6502

15. Therefore, the United States is entitled to judgment in the amount of the aforementioned unpaid federal tax liabilities, pursuant to 26 U.S.C. § 7401.

**SECOND CLAIM FOR RELIEF**  
**Enforcement of the Lien Against the Property – 26 U.S.C. § 7403**

16. The allegations in paragraphs 1 through 15 are repeated and realleged as though set forth fully herein.

17. The federal tax lien arising in favor of the United States, described above, attaches to all property or rights to property owned by Mr. Liu as of the as of the date of the lien's filing, as well as to all property or rights to property he thereafter acquired. The lien has not been satisfied. By this action, the United States seeks to foreclose its lien against the Property, which was owned by Mr. Liu on the date the lien was filed.

18. Upon information and belief, Mr. Liu and Ms. Chan-Liu purchased the Property, which is a three-bedroom condominium apartment, in 1999. The property is deeded to both Mr. Liu and Ms. Chan-Liu, who hold it as tenants by the entirety, and they are the sole owners of the Property. Upon information and belief, Mr. Liu and Ms. Chan-Liu do not reside at the Property, but currently rent it to one of their adult sons.

19. A mortgage on the property was recorded on January 3, 2005, with CitiMortgage as the mortgagee. Upon information and belief, Cenlar is the current servicer of the mortgage and the mortgage balance as of December 31, 2020, was \$106,404.

20. Upon information and belief, the current fair market value of the Property is at least \$425,000.

21. Ms. Chan-Liu is named as a defendant herein because she may claim to have an interest in the Property.

22. Defendants CitiMortgage and Cenlar are named as parties herein because they may have, or may claim to have, interests in the Property.

23. No other action has been commenced at law or otherwise for recovery of this sum or any part thereof.

24. Accordingly, the IRS's lien against Mr. Liu should be enforced against the Property, pursuant to 26 U.S.C. § 7403.

WHEREFORE, plaintiff the United States demands judgment:

(a) In the amount of Mr. Liu's unpaid federal tax liability for tax year 2009, which, as of November 15, 2021, totaled \$70,294.92 (including taxes, interest, fees, and statutory additions), plus interest and statutory additions accruing thereon from November 15, 2021, according to law, less any payment made;

(b) declaring that any interest or claimed interest of Mr. Liu in the Property is subject to a valid and subsisting federal tax lien;

(d) declaring that the defendants, and all other persons whose interest in the Property is subordinate to or recorded after the attachment of the United States' lien, be forever barred and foreclosed from all right, title, claim, lien or other interest in the Property that is superior to the United States' lien;

(e) directing foreclosure of the United States' lien upon the Property and sale of the Property by the United States Marshal or his representative, pursuant to 28 U.S.C. §§ 2001 and 2004, with a share of the proceeds reflecting Mr. Liu's ownership interest in the Property to be

applied to the debt due to the United States, together with interest to the date of payment, plus costs and disbursements of this action;

(f) adjudging Mr. Liu liable for a deficiency judgment, in the event of a deficiency in the amount collected upon the sale of the Property, in the amount of any such deficiency;

(g) directing that any current occupant of the Property vacate it on or before the date of foreclosure upon the lien; and

(g) awarding the United States its costs, disbursements, and such further relief against defendants as the Court may deem just and proper.

Dated: New York, New York  
July 7, 2022

DAMIAN WILLIAMS  
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Southern District of New York

*Attorney for plaintiff United States of America*

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